IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9406 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Petitioner(s)

Versus

CHHAGANLAL NANJIBHAI CHOVATIYA - Respondent(s)

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Appearance :

MR SANGEETA VINAYAK for M/S THAKKAR ASSOC. for Petitioner.

MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 05/08/2005

ORAL JUDGMENT

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1. This petition is directed against the order dated 10th June, 1997 passed by the Labour Court, Rajkot in Recovery Application No. 258/82, whereby the said application was allowed.

2. The short facts of the case are that the respondent was working as a Conductor with the petitioner Corporation. It is the case of the petitioner that the respondent under Section 33 (C)(2) of the Industrial Disputes Act, 1947, preferred an application before the Labour Court for bonus for the period between 1973-74 and other benefits like uniform etc. The petitioner opposed the said application by filing reply at Exh. 4 inter alia denying the said claim. The Labour Court after considering the materials produced before it, allowed the said application by directing the petitioner to pay the amount of bonus to the respondent. Hence, this petition.

3. I have heard the learned counsel for the parties. Having perused the materials produced on record, it transpires that the Labour Court has committed an error in not appreciating the fact that the Court can entertain the application under Section 33(C) (2) only in respect of the pre existing rights of the claimant. In the present case there is no such pre existing right in favour of the respondent. Moreover, the respondent has not worked for the said period as was dismissed from the service.

3.1. Further the Labour Court while allowing the application has has erred in not appreciating the fact that the application was moved by the respondent after a lapse of eight years and it ought to have rejected the application on the ground of delay. Thus, the impugned order passed by the Labour Court is bad & illegal and deserves to be quashed and set aside.

4. In above view of the matter, the petition is allowed. The impugned order dated 10th June, 1997 passed by the Labour Court, Rajkot in Recovery Application No. 258/82 is quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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